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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210282
Party	Plaintiff Red Bull GmbH
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Submission	Motion to Consolidate
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Date	01/21/2014
Attachments	Stockmarket Burger- Motion to Consolidate.pdf(343071 bytes)

Opposer, RED BULL GMBH (“Opposer” or “Red Bull”), by and through its attorneys, hereby moves the Trademark Trial and Appeal Board (“Board”) for an order consolidating the related opposition proceedings -- Opposition No. 91-210,282 and Opposition No. 91-214,537. Please note that this motion is being filed concurrently in Opposition No. 91-210,282 and Opposition No. 91-214,537, and Opposer respectfully requests that both proceedings be suspended pending the disposition of this Motion, and an order of suspension be issued to that effect.

The Board may order consolidation of pending cases involving common questions of law or fact. Fed. R. Civ. P. 42(a); TBMP § 511. Here, the above-captioned opposition proceedings share: (1) identical parties; (2) substantially similar and identical witnesses; (3) the same mark asserted by the Opposer; (4) substantially similar marks at issue; and (5) substantially similar and identical allegations regarding confusion and false suggestion of a connection between Opposer's marks and Applicant's marks, and Applicant's lack of bona fide intent to use Applicant's Opposed Marks in commerce. Thus, as identical and common questions of fact and law will need to be addressed in each proceeding, consolidation is appropriate. *See M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1046 (TTAB 2008) (proceeding involved identical parties, identical registrations and related issues); *World Hockey Ass'n v. Tudor Metal Products Corp.*, 185 USPQ 246, 248 (TTAB 1975) (consolidation ordered where issues were substantially the same and consolidation would be advantageous to both parties).

Further, consolidation is appropriate if it will benefit both parties by resulting in saving time, effort, and expense. TBMP § 511. Here, no prejudice or inconvenience will be caused by consolidation of the proceedings as both proceedings are only three months apart in their schedules (approximately five months worth of extensions of time have been granted in Opposition No. 91-210,282), and although Opposition No. 91-210,282 has entered discovery, neither party has served any discovery requests or notices of deposition on the other side. As both oppositions will require substantially identical discovery and witnesses, both parties will be benefited by consolidation of the proceedings at this point, prior to the service of discovery requests. Accordingly, pursuant to TBMP § 511, Opposer requests that the Board follow its standard procedure and, upon consolidation, reset the dates for the consolidated proceeding by adopting the dates as set in the most recently instituted of the cases being consolidated.

Based on the above, Opposer respectfully requests that the Board issue an order granting this Motion to Consolidate Proceedings, wherein the consolidated schedule is consistent with the more recently instituted Opposition No. 91-214,537.

Respectfully submitted,

RED BULL GMBH
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Dated: January 21, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S MOTION TO CONSOLIDATE** is being served on January 21, 2014, by deposit of same in the United States Mail, first class postage prepaid, in an envelope addressed to Applicant's Counsel at their Correspondent address given on the TSDR website, with courtesy copy being served via email to Paulo@patelalmeida.com:

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